

REMARKS

Claims 1 to 20 and 22 to 24 have been canceled. Claim 21 has been amended to define a method.

Only independent method claim 21 remains in the application.

Reexamination and reconsideration are respectfully requested in view of these amendments and the remarks that follow.

Claim 21 as previously submitted stood rejected under 35 U.S.C. 103(a) based upon Ronk (US 9,951,160) in view of either Solomon (US 5,842,786); or Solomon (US 4,277,184); or Brown et al (US 5,842,785). Claim 21 has been amended to define subject matter neither taught nor suggested by any of these documents, either when considered alone or in combination.

As amended, claim 21 defines a method that provides a device for mixing and dispensing a bone filling material. The device comprises a receptacle having a sidewall peripherally surrounding an interior for receiving components of the bone filling material in an unmixed condition. The receptacle also includes a first end region and a second end region oppositely spaced from the first end region. A dispenser outlet is formed on the sidewall adjacent the second end region and communicating with the interior of the receptacle. The device also includes a base on the second end region to support the first end region in an upright condition and being sized and configured to resist tipping of the receptacle during use.

The method defined in amended method claim 21 further provides a mixing element sized to be inserted into the interior of the receptacle through the first end region while the base supports the first end region in the upright condition, to mix the components of the bone filling material within the interior of the receptacle. As defined, the mixing element also is sized to be withdrawn from the interior of the receptacle through the upright first end region after mixing of the components.

The method defined in amended method claim 21 further provides a plunger sized to be inserted, after withdrawal of the mixing element, into the interior of the receptacle through the first end region for advancement through the interior toward the second end region, to dispense the mixed components of the bone filling material through the dispenser outlet while the base supports the first end region in the upright condition.

The method defined in amended method claim 21 further places components of the bone filling material in an unmixed condition into the interior. Further, the method (i) inserts the mixing element into the interior of the receptacle through the first end region, (ii) manipulates the mixing

element to mix the components of the bone filling material within the interior of the receptacle, (iii) withdraws the mixing element from the interior of the receptacle through the upright first end region, (iv) inserts the plunger into the interior, and (iv) advances the plunger through the interior toward the second end region to dispense the mixed components of the bone filling material through the dispenser outlet. The method performs all these manipulations (i) to (iv) while the base supports the first end region in an upright condition that resists tipping.

Support for the subject matter defined in amended claim 21 can be found, e.g., on Specification page 8, line 25 to page 9, line 5 and Fig. 2B. This amendment responds to the Examiner's position regarding similar terminology in previously pending apparatus claim 18, which the Examiner viewed as a "method of operation or intended use." The amendment defines a method of providing a device with a supporting base, along with steps of operating the device while being supported by the base.

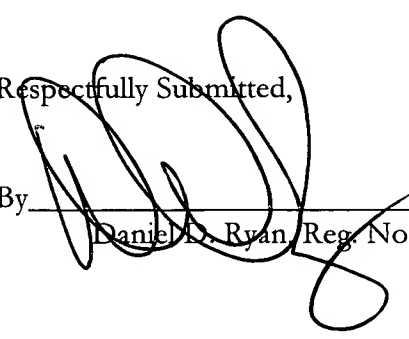
The Examiner acknowledges that Ronk does not disclose a stand, or, as now defined in amended claim 21, a "base on the second end region to support the first end region in an upright condition and being sized and configured to resist tipping of the receptacle during use." To this, applicant also adds the observation that Ronk does not teach or suggest a dispensing outlet on the sidewall of a receptacle through which material can be dispensed while the receptacle is supported in an upright condition, as also defined in amended claim 21.

The Examiner relies upon the two Solomon documents and Brown to disclose the use of "stands" to hold a mixing device during mixing operations. This is true. Still, neither of these documents teach or suggest a method, as defined in amended claim 21, that also performs multiple subsequent manipulations after mixing -- of inserting a plunger and advancing the plunger to dispense the bone filling material -- all while the base continues to provide support for the device, keeping the first end region in a supported, upright condition that resists tipping. Solomon and Brown remove the mixing device from a stand after the mixing operations. During dispensing, the mixing device is hand-held. It is no longer supported by a stand in an upright condition that resists tipping. Furthermore, in Solomon and Brown, material is dispensed from the device, now free of the stand, through the bottom of the device, and not from a dispensing outlet on the sidewall of the device, so that dispensing can occur while the device is supported by a base in an upright condition that resists tipping. Solomon and Brown do not teach or suggest a device in which mixing and dispensing occur in a device without removal of the device from a support base.

For these reasons amended independent method claim 21 is believed to be in condition for allowance.

Respectfully Submitted,

By


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